

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Donald & Maryna Smith,
Appellants,

v.

Woodbury County Board of Review,
Appellee.

ORDER

Docket No. 14-97-0009
Parcel No. 8847-29-354-011

On November 6, 2014, the above-captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Donald and Maryna Smith, were self-represented and requested their appeal proceed without a hearing. County Attorney Patrick Jennings is counsel for the Board of Review. County Assessor Kathy Sands submitted evidence on its behalf. The Appeal Board having reviewed the record, and being fully advised finds:

Findings of Fact

Donald and Maryna Smith are the owners of a residentially classified property located 1460-146 Vandenberg Circle, Sergeant Bluff, Iowa. The property is a two-family, single-story home built in 1960. Each unit has 1026 square feet of living area and two bedrooms. There is no basement. Each unit also has a one-car attached garage and a 140 square-foot concrete patio. The site is 0.358 acres.

The Smiths protested to the Board of Review regarding the 2014 assessment of \$132,070, allocated as \$13,710 in land value and \$118,360 in improvement value. This was a change in value from the previous year making all grounds for appeal under section 441.37 available to the Smiths. They claimed the assessment was not equitable as compared to other like properties under section 441.37(1)(a)(1). The Board of Review denied the petition.

The Smiths then appealed to this Board.

On their petition, the Smiths provided five properties they considered similar to theirs for an equity comparison. The following chart outlines the information.

Property Address	Gross Living Area (GLA)	Assessed Value
1593 Harrington Loop	1026	\$83,310
1504 Harrington Loop	1026	\$83,030
1388 Vandenberg Circle	1456	\$102,890
1422 Vandenberg Circle	1456	\$100,810
1300 Vandenberg Circle	1200	\$117,270

There was no other information presented with the petition and it is unclear if the Smiths participated at the Board of Review hearing as they did not request an oral hearing.

The Board of Review submitted a written affidavit from Woodbury County Assessor Kathy Sands. (Exhibit A). Sands explained that the first four properties the Smiths listed “were not truly comparable because of below normal or poor condition.” (Exhibit A). The Smith’s property is listed as above-normal condition. She explained that market data indicated properties in poor condition require a 10% reduction as compared to properties that have been remodeled. Sands agreed, however, that the property located at 1300 Vandenberg Circle was comparable to the Smiths’ property, but she noted that a clerical error affected its assessment. Sands stated that although 1300 Vandenberg Circle had been remodeled, its assessment at \$117,270 still included the 10% reduction for poor condition. The Board of Review, acting on its own initiative, removed the 10% adjustment on this property in its May 2014 session and raised the assessment to \$129,370. (Exhibit E). According to Sands, this action corrected any inequity between the Smiths’ property and 1300 Vandenberg Circle. (Exhibit A).

The Smiths also submitted a spreadsheet with additional comparable properties, as well as property record and photos for each property (Exhibits 1; 3-17; 19). Ultimately, we do not find it necessary to replicate the spreadsheet because none of the properties the Smiths submitted recently

sold. Nor did the Smiths provide an estimate of the fair market value of those properties to determine the assessment/sales price ratio.

Sands provided handwritten comments on the Smiths' spreadsheet (Exhibit G) indicating some of the properties were in poor condition and that only three properties are in similar condition to the subject. The following chart summarizes the subject property and the three properties Sands identified as in similar condition.

Address	Site Size	Total Bedroom	Total Bath	Total Gross Living Area (GLA)	Total Assessed Value
Subject	0.36	4	2	2052	\$132,070
1300-1302 Vandenberg	0.30	6	2	2400	\$129,370
1304-1306 Vandenberg	0.26	6	2	2400	\$128,020
1308-1310 Vandenberg	0.26	6	2	2400	\$128,210

The Board of Review provides no rationale for why these three properties, which are superior in bedroom count and living area, are assessed for less than the subject property; although we note they all have smaller sites and lower assessed land values. Additionally, it is possible subject property has a slightly higher assessment based on the concept of decreasing returns. This concept is the premise that there is a point of decreasing return and additional size beyond a certain point will not yield a return commensurate with the additional investment. THE DICTIONARY OF REAL ESTATE 110 (5th ed.). However, the record is lacking for us to conclude that this is the case.

The Board of Review submitted a sales analysis that asserts demonstrates uniformity and equity of assessments in the subjects Oak Hills Subdivision. (Exhibit B). The second page of this exhibit shows six sales of what are presumed to be duplex properties in the subject's subdivision. It is unclear if the properties sell as duplexes or bi-attached properties, as some of the sale prices and assessments appear to reflect only one unit. Regardless, the information indicates a median sale ratio of 98.97%.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

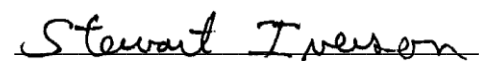
The Smiths offered multiple properties they considered comparable to theirs for an equity analysis. However, many of the properties were not in the same condition and none recently sold or had another opinion of their market value; therefore, there is insufficient evidence to determine assessment/sales ratio. Moreover, the Smiths did not assert that the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties. For these reasons, the Smiths failed to show their property is inequitably assessed as compared to like properties.

THE APPEAL BOARD ORDERS the 2014 assessment of Donald and Maryna Smith’s property located 1460-146 Vandenberg Circle, Sergeant Bluff, Iowa, set by the Woodbury County Board of Review, is affirmed.

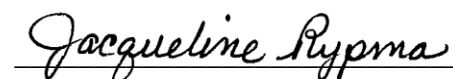
Dated this 4th day of December, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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